

1 **Remarks**

2 A brief description of prior art cited as relevant by the
3 examiner has been added to the specification. The claims have
4 been re-written in order to more specifically describe the
5 invention and to correct minor errors. Appropriate changes have
6 also been made to the abstract. Re-examination and
7 reconsideration of the application as amended is requested.

8 Applicant is aware that 35 U.S.C. section 132 prohibits any
9 amendment to an application that adds new matter to the
10 disclosure of the invention. Since the addition of a brief
11 description of prior art cited as relevant by the examiner has
12 been added to the specification this does nothing to add new
13 matter to the disclosure of the invention.

14 The examiner objected to claim 5 because the word
15 "elemenate" is mistyped. This has been corrected in the new
16 claims.

17 The examiner rejected claims 4 and 7-8 because the term
18 "balcony" is not described in the specification. This has been
19 corrected in the new claims.

20 The examiner rejected claims 6, 8-10 under 35 U.S.C. 102(b)
21 as being anticipated by Graves, et al in US Patent 6,407,798 B2.
22 This rejection is submitted to have been overcome by cancellation
23 of the rejected claims and the addition of new claims that more
24 specifically describe the invention so as for Graves, et al to
25 not have anticipated the present invention.

26 Referring to the MPEP section 2131 states

27 A claim is anticipated only if each and every element
28 as set forth in the claim is found either expressly or

1 inherently described, in a single prior art reference.
2 Verdegaal Bros v Union Oil Of California 814 F.2d 628,
3 631 2 U.S.P.Q.2d 1051 1053 (Fed.Cir. 1987) The
4 identical invention must be shown in as complete detail
5 as is contained in the claim. Richardson v Suzuki
6 Motor Co 868 F.2d 1226, 1236 9 U.S.P.Q.2d 1913 1920
7 (Fed.Cir. 1989)

8 It is submitted that the new claims describe an invention
9 that is far afield from that of Graves, et al. The disclosure of
10 Graves, et al is for a single theater with a plurality of screens
11 in the theater for purposes of either showing a regular format
12 motion picture or for showing a large format motion picture in
13 the single theater. In order to show either formatted motion
14 picture the screen in the single theater is changed accordingly.
15 This teaches away from the present invention because the present
16 invention is for theaters with fixed screens as opposed to one
17 single theater with changeable screens.

18 Further Graves, et al does not provide for separate
19 facilities and viewing levels for separate classes of patrons in
20 that there is no separate entrance and exit for separate viewing
21 levels and no separate concession facility for two classes of
22 patrons.

23 The examiner rejected claims 1-5 10 under 35 U.S.C. 103(a)
24 as being unpatentable over U.S. Patent Number 6,407,798 B2
25 Graves, et al, in view of U.S. Patent Number 6,164,018 Runge, et
26 al.

27 The Graves, et al invention is for a theater that has
28 changeable screens for purposes of showing different types of

1 motion picture formats. There is no separation of viewing levels
2 for different classes of patrons and only one single theater is
3 described. This teaches away from the present invention in that
4 the present invention is for purposes of showing different
5 formatted motion pictures in different theaters. Graves, et al
6 recognizes that different theater facilities are needed for
7 different formats of motion pictures and suggest that the
8 solution to this need is to provide for changeable screens in a
9 single theater. The present invention also solves the need for
10 different theater facilities for different formats of motion
11 pictures but suggests that multiple theaters not multiple screens
12 best answers this need.

13 Runge, et al, discloses a building with multiple theaters of
14 a like kind located in the building. The theaters are for
15 showing of a single kind of motion picture format and have a
16 single mezzanine area with a single concession facility. Runge,
17 et al recognizes the need for savings of the cost of construction
18 of a theatrical structure and suggests several theaters in one
19 single building would save on these costs. The present invention
20 also solves this need but additionally provides for segregation
21 of facilities for different classes of patrons and for the
22 showing of different formatted motion pictures in different
23 theaters in one single building.

24 Referring to MPEP section 2144.06 it is stated:

25 In order to rely on equivalence as a rationale
26 supporting an obviousness rejection, the equivalency
27 must be recognized in the prior art, and cannot be
28 based on applicant's disclosure or the mere fact that

1 the components at issue are functional or mechanical
2 equivalents. In Re: Ruff 256 F.2d 590, 118 U.S.P.Q.
3 340 (C.C.P.A. 1958)
4 Also Smith v. Hayashi 209 U.S.P.Q. 754 (Bd.ofPat.Int.
5 1980)wherein the court held that components which are
6 functionally or mechanically equivalent are not
7 necessarily obvious in view of one another.

8 In the present case combining the two cited references would
9 not produce the present invention in any event in that the
10 invention of Graves, et al, teaches away from the present
11 invention and all of the elements of the present invention are
12 not to be found in the two cited references.

13 Also the teaching or suggestion to make the claimed
14 combination and the reasonable expectation of success must both
15 be found in the prior art, not in applicant's disclosure.
16 In Re: Vaeck 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed.Cir. 1991)

17 Nowhere in the prior art is there any suggestion for
18 combining the two cited references. Again the teaching away from
19 the present invention by Graves, et al would preclude the
20 combining of the two cited references in any event..

21 Clearly the present invention is the first to recognize that
22 it is desirable to combine multiple theaters in one building and
23 at the same time provide for the showing of different formatted
24 motion pictures in different theaters. The present invention
25 goes beyond this and also provides for completely separate
26 facilities for different classes of patrons a feature not found
27 in any known prior art.

28 Clearly the results produced by the present invention have

1 long been sought in the prior art but prior to this invention
2 have not been produced.

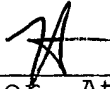
3 After amendment it is submitted that the claims of this
4 invention are no longer anticipated by Graves, et al and are not
5 obvious in view of Runge, et al.

6 For all of the foregoing reasons it is submitted that the
7 claims are in condition for allowance. Reconsideration of the
8 rejections and objections is requested. Allowance of claims 11
9 through 15 at an early date is requested.

10 Respectfully submitted.

11 DATED: JUN 20 2003

LAW OFFICE OF NATHAN BOATNER

12
13 
14 Nathan Boatner, Attorney
15 Reg. No. 32856
16 PMB 692, 7095 Hollywood Blvd,
Los Angeles, CA, 90028
(213) 840-8286


17 CERTIFICATE OF MAILING

18 I hereby certify that the foregoing response to official
19 action has been placed in the United States Mail at Mira Loma,
California on this day of

20 JUN 20 2003

with first class postage prepaid addressed as follows:

21 Commissioner for Patents
22 PO Box 1450
Alexandria, VA 22313-1450

23
24 DATED JUN 20 2003
25 
26 Nathan Boatner, Attorney
27 Reg. No. 32856
28 PMB 692, 7095 Hollywood Blvd,
Los Angeles, CA, 90028
(213) 840-8286